

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 08-cv-01463-RPM

EPC Corporation, an Arizona corporation;
DENNIS C. SHAW;

Plaintiffs,

v.

JAMES G. KREUTZER,
HERMOSA PARK, LLC, a Colorado limited liability company;
CHARLES SHAFER, II;
MICHAEL MCQUINN;
MICHAEL MCQUINN AS TRUSTEE FOR THE MICHAEL MCQUINN PROFIT SHARING PLAN;
BARRY MASON;
BRANDON ROFF;
BRET MASON;
DANIEL WANSTRATH;
DIANE ORRELL-LOPEZ;
DYLAN NORTON;
JACKIE ONEY and
TONY ONEY, husband and wife;
JANET L. PETTIGREW AS TRUSTEE OF THE JANET L. PETTIGREW REVOCABLE TRUST
DATED FEBRUARY 27, 2006;
LESLIE R. FARRELL;
LOIS CARPENTER;
MATTHEW SPOWART;
MCKOWN AND MCKOWN, LLC, a Colorado limited liability company;
MREI, LLC, an Alaskan limited liability company;
R. KEN CARPENTER;
ROBERT WALLACE;
RONALD W. PETTIGREW AS TRUSTEE OF THE RONALD W. PETTIGREW REVOCABLE
TRUST DATED FEBRUARY 27, 2006;
ROYAL LILLGE;
SULTANA INVESTMENT LIMITED PARTNERSHIP, an Alaska limited partnership;
THOMAS L. GRAMS;
THOMAS A. ST. OURS; and
WILLIAM PEASE FAMILY LIMITED PARTNERSHIP, an Alaska limited partnership,

Defendants.

ORDER DENYING MOTION FOR SUMMARY JUDGMENT BY THE GROUP OF 24
DEFENDANTS

On June 26, 2009, all defendants except James G. Kreutzer and Hermosa Park, LLC,
filed a motion for summary judgment, seeking dismissal of the plaintiffs' claims against them

and for judgment against Dennis Shaw on their counterclaim. The plaintiffs responded with a motion seeking additional time to respond under Rule 56(f). The plaintiffs also filed a pleading designated as a reply in support of their Rule 56(f) motion which the defendants then moved to strike. Upon examining the pleadings and considering the statements made on May 28, 2009, at the conference with counsel regarding a scheduling order, the Court finds and concludes that the defendants' attempts to avoid litigation of this case by a motion for summary judgment before discovery, based on the asserted inability of the plaintiffs to support factually their claims in response to defendants' discovery requests should be denied. It is apparent that there are substantial questions concerning the role of the attorney for defendant James Kreutzer in the transactions giving rise to this case and the related case, Civil Action No. 09-cv-00940-RPM, and it also appearing that there are substantial questions of fact regarding the knowledge of defendants Charles Shafer and Michael McQuinn and the multiple financing arrangements that preceded the involvement of Dennis Shaw in this and the related real estate development projects, the motion for summary judgment is premature. It is therefore

ORDERED that because of material factual disputes the motion of defendants for summary judgment is denied.

Dated: September 10th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge